

**Recording Requested by:**  
City Clerk, Fresno, California  
No Fee-Govt. Code 6103

**Return to City Clerk, Fresno**

---

Space above this line reserved for Fresno County Recorder's Office

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADOPTING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF FRESNO AND 2500 MLK, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, PURSUANT TO THE PROVISIONS OF SECTION 65864 ET SEQ. OF THE GOVERNMENT CODE AND ARTICLE 60 OF CHAPTER 15 OF THE FRESNO MUNICIPAL CODE.

WHEREAS, pursuant to the provisions of Government Code sections 65864, et seq., and Article 60 of Chapter 15 of the Fresno Municipal Code, the City of Fresno is authorized to enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property; and

WHEREAS, 2500 MLK, LLC, a California limited liability company (the Master Developer) has an interest in entering into a development agreement to develop the property generally described in Exhibit A to this ordinance which is attached hereto and incorporated herein by reference (Subject Property); and

WHEREAS, Plan Amendment No. A-17-007 (Resolution No. 2017-231), Prezone Application No. R-17-010 (Ordinance No. 2017-43/Bill No. B-43), and Tentative Parcel Map

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: 

Ordinance No. \_\_\_\_\_

No. TPM-17-06 (Resolution No. 2017-232) were approved for the Subject Property by the Council on August 24, 2017 (the Prior Approvals); and

WHEREAS, the subject property was annexed to the City pursuant to proceedings conducted by the Fresno Local Agency Formation Commission, pursuant to the Jensen-Martin Luther King No. 4 Reorganization (LAFCO File No. R0-17-7); and

WHEREAS, Among the Conditions of Approval imposed by the City for the approval of Tentative Parcel Map No. TPM-17-06 (the Parcel Map COAs) is a requirement that the Master Developer enter into a Development Agreement with the City; and

WHEREAS, subsequent to attaining the Prior Approvals, Master Developer engaged an architect and land planner to review the entitlements for the Prior Approvals, and to recommend certain refinements and enhancements to such entitlements. Those evaluations resulted in the West Creek Village Master Plan, a copy of which is on file with the City; and

WHEREAS, to implement the West Creek Village Master Plan, Master Developer has filed Plan Amendment Application No. P18-03290, and Rezone application No. P18-03290 (the Subsequent Approvals); and

WHEREAS, approval of a development agreement as requested by Master Developer will allow future development to occur on the Subject Property in accordance with the Prior Approvals as modified by the Subsequent Approvals (the West Creek Village Project); and

WHEREAS, City staff and Master Developer negotiated a development agreement that is titled "Development Agreement By and Between the City of Fresno and 2500 MLK, LLC." (Development Agreement) that applies only to the West Creek Village Project; and

WHEREAS, on August 24, 2017, the City, as Lead Agency, approved Environmental Assessment No. A-17-007/R-17-010/TPM-17-06/ANX-17-005, a Mitigated Negative

Declaration, which evaluated the environmental impacts associated with the the Prior Approvals, which required preparation of the subject Development Agreement; and

WHEREAS, the Subsequent Approvals were processed concurrently with this Development Agreement and were assessed with an Addendum to Environmental Assessment No. A-17-007/R-17-010/TPM-17-06/ANX-17-005; and

WHEREAS, the Mitigated Negative Declaration prepared for Environmental Assessment No. A-17-007/R-17-010/TPM-17-06/ANX-17-005 and approved on August 24, 2017 was drafted in a manner such that all applicable mitigation measures of Fresno General Plan Master Environmental Impact Report (MEIR No. 2012111015) have been applied to the project, together with project specific mitigation measures, as necessary to assure that the project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified by SCH No. 2012111015 as provided by CEQA Section 15178(a); and

WHEREAS, the preparation of an Addendum to Environmental Assessment No. A-17-007/R-17-010/TPM-17-06/ANX-17-005 (a Mitigated Negative Declaration) is appropriate given that none of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent EIR or Mitigated Negative Declaration have occurred; and new information added is only for the purposes of providing minor changes or additions, in accordance with Section 15164 of the CEQA Guidelines. There is no substantial evidence in the record that the Subsequent Approvals may have additional significant effects on the environment that were not identified in Environmental Assessment No. A-17-007/R-17-010/TPM-17-06/ANX-17-005 (a Mitigated Negative Declaration), and that all applicable mitigation measures of the prior MND have been applied to the project. In addition, pursuant to Public Resources Code, Section 21157.6(b)(1), Council finds that no substantial changes have

occurred with respect to the circumstances under which the prior MND was adopted; and, that no new information, which was not known and could not have been known at the time that the prior MND, has become available.

WHEREAS, the Public Works Department and Department of Public Utilities, in consideration of the Proposed Project, have determined the necessary exactions and improvements necessary for the West Creek Village Project; and

WHEREAS, the Planning Commission of the City of Fresno held a public hearing on the 5th day of February 2020 to consider the associated Subsequent Approvals, and this Development Agreement, and recommended approval to the Council of the City of Fresno through Resolution Nos. [insert reso numbers]; and

WHEREAS, The Council of the City of Fresno, on the 13th day of February 2020 received the recommendations of the Planning Commission and City staff as specifically detailed in the Report to the City Council for this Ordinance approving the Development Agreement by and between the City of Fresno and the Master Developer dated [insert date].

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1: The Council in a prior actions taken on August 24, 2017 and February 13, 2020, made all of the necessary findings pursuant to CEQA and the CEQA Guidelines to adopt the Mitigated Negative Declaration prepared for Environmental Assessment No. A-17-007/R-17-010/TPM-17-06/ANX-17-005 and the Addendum to EA No.A-17-007/R-17-010/TPM-17-06/ANX-17-005 dated January 13, 2020, for purposes of the West Creek Village Project.

SECTION 2. Council, in a prior action taken on February 13, 2020, approved Plan Amendment Application No. P18-03290 and Rezone application No. P18-03290, for the West Creek Village Project.

SECTION 3. Council finds in its independent judgment, based upon its review of the Mitigated Negative Declaration prepared for Environmental Assessment No. A-17-007/R-17-010/TPM-17-06/ANX-17-005 and the January 13, 2020 Addendum to EA No.A-17-007/R-17-010/TPM-17-06/ANX-17-005, and the entire administrative record, including but not limited to the Staff reports, the oral and documentary evidence submitted to Council and the Planning Commission, that the Proposed Development Agreement was part of the project assessed under Environmental Assessment No. A-17-007/R-17-010/TPM-17-06/ANX-17-005, and is constant with the minor revisions set forth in the Subsequent Approvals as assessed by the Addendum to EA No.A-17-007/R-17-010/TPM-17-06/ANX-17-005 January 13, 2020.

SECTION 4. Council finds that the West Creek Village Project is a development for which the Development Agreement is appropriate pursuant to the evidence and findings provided in the Staff Report to Council dated February 13, 2020.

SECTION 5. Council finds, in accordance with Section 65867.5 of the Government Code and Fresno Municipal Code Section 15-6006, and pursuant to the evidence and findings provided in the Staff Report to Council dated February 13, 2020 that:

(a) The Development Agreement is being adopted pursuant to this Ordinance and is subject to referendum.

(b) The provisions of the Development Agreement are consistent with the Fresno General Plan and are consistent with the Subsequent Approvals, which were processed concurrently with the Development Agreement. Further, the Development

Agreement is consistent with the purpose of the Development Code to promote growth in an orderly and sustainable manner, support infill development, and to promote and protect the public health, safety, peace, comfort, and general welfare. Approval of the Development Agreement will facilitate investment within the Southwest Fresno Specific Plan area and will further the goals, policies and objectives of the Specific Plan.

(c) The Development Agreement will provide substantial public benefit by establishing one of two magnet cores called for by the Southwest Fresno Specific plan, establishing variety of housing types, and will facilitate revitalization of an existing key corridor.

SECTION 6. Council finds that the Development Agreement complies with the Fresno Municipal Code and other applicable ordinances, standards, policies and regulations of the City of Fresno pursuant to the evidence and findings provided in the Staff Report to Council dated February 13, 2020.

SECTION 7. Council finds that the Development Agreement furthers the public health, safety and welfare and will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the Subject Property, pursuant to the evidence and findings provided in the Staff Report to the City Council dated February 13, 2020.

SECTION 8. The Council finds that the construction of public facilities required in conjunction with the development is adequate to serve the development pursuant to the findings provided in the Staff Report to the City Council dated February 13, 2020.

SECTION 9. Council finds that the Development Agreement provides for clear and substantial public benefit to the City of Fresno and residents pursuant to the evidence and findings provided in the Staff Report to Council dated February 13, 2020.

SECTION 10. Council hereby adopts and approves the Development Agreement titled "Development Agreement By and Between the City of Fresno and 2500 MLK, LLC." in substantially the same form as that presented to Council in the Staff Report to Council dated February 13, 2020, and authorizes the City Manager and/or his or her designee to finalize and execute the Proposed Development Agreement, subject to City Attorney's Office approval as to form, on behalf of the City of Fresno.

SECTION 11. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

\* \* \* \* \*

CLERK'S CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF FRESNO )  
CITY OF FRESNO )

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing Ordinance was adopted by the Council of the City of Fresno, California, at a regular meeting held on the \_\_\_ day of January 2020 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

YVONNE SPENCE, MMC CRM  
City Clerk

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

By \_\_\_\_\_  
Talia Kolluri Date  
Supervising Deputy City Attorney

Attachments: Exhibit A